

Acton Survey & Engineering, Inc.

P.O. Box 666, 97 Great Rd. #6 • Acton, MA • 01720

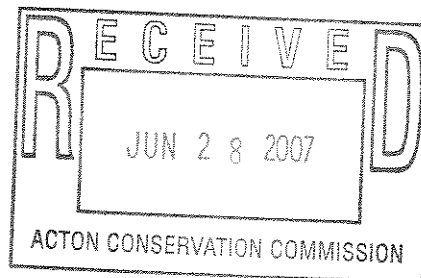
Phone: (978) 263-3666 • Fax: (978) 635-0218

Email: actonsurvey@verizon.net

June 26, 2007

Acton Conservation Commission
472 Main Street
Acton, MA 01720

Re: Jeanson Homes, Inc.
Lots 2C & 3 Spring Hill Road
DEP # 085-0971
6562



Dear Commission Members:

This letter is in response to comments made by the Commission and abutters during the continued hearing of June 20th and to reiterate that the continuation of the hearing to July 18th is acceptable to our client.

INTERMITTENT STREAMS

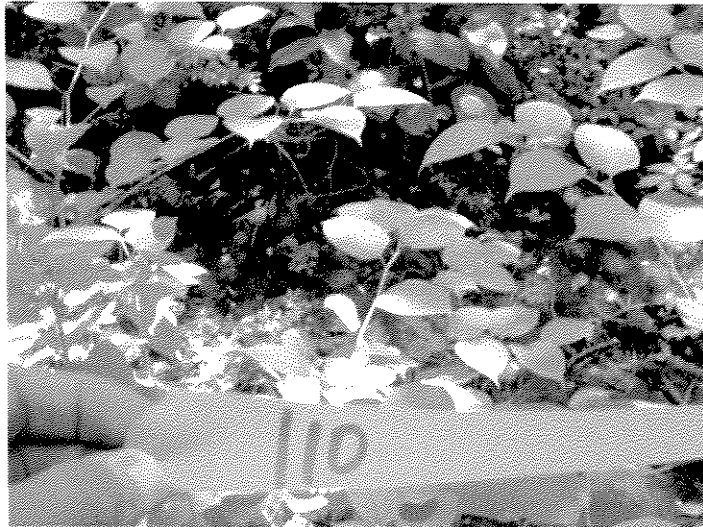
The intermittent streams have been field located and added to the site plan.

Please find enclosed a copy of my letter of August 27, 2003 to the Commission concerning the definition of perennial and intermittent streams. The criterion set forth in the letter applies to this site except the tributary drainage areas at this site are smaller in acreage. If the Commission should desire that the letter be reformatted to be specific to this site we will be happy to do so.

Despite a statement by an abutter to the Squirrel Hill Road projects that the stream has never run dry, the need for the letter was rendered moot by the stream being dry for the 10 day period prior to the second public hearing.

This office believes it is difficult to claim a stream has never run dry if it has not been observed daily for an extended period of time.

A site visit to the area of the proposed wetland crossing off Spring Hill Road on the afternoon of June 25, 2007 found the brook to be crossed to be dry. This photo from June 25, 2007 shows wetland flag 110 with the dry area behind it.



WATER SUPPLY WELL

The well on Lot 3 is now located 100 feet from the proposed SAS and over 55 feet from the BVW. The well on Lt 2C is 60 feet from the BVW.

The Commission under DEP #085-0957 allowed a water supply well to be constructed 35 feet from a BVW on an adjacent property.

Protection of public and private water supply is the first Interest to be protected under the Wetlands Protection Act. It our opinion that the placement of a low capacity rock well 50 feet from a broad forested BVW will serve to provide additional protections for the well and will have no impact on the wetlands or the value to be protected by it with proper construction safe guards.

STATUS OF LOTS

The property plan on file at the Registry of Deeds is enclosed and shows the property subject to this Notice being divided into a lot containing the existing house and a single lot containing the property on which the two new homes are to be constructed. The driveway easement is also shown on this plan.

Sufficient soil evaluations and percolation tests have been performed to allow the approval of two subsurface sewage disposal systems. However, their locations are such that one of the homes will be required to be placed in conflict with the Acton Wetlands Bylaw.

It is our opinion that without additional field data that one septic system for either of the homes could be permitted and if only one house was to be constructed the design of the wetland crossing will not be changed.

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It is also our opinion that both subsurface sewage disposal system shown on the plan can be permitted.

STATUS OF EASEMENT

A copy of the Quitclaim Deed for Lot 2A is attached and the driveway easement contains no restrictive clause allowing for the present home owner's approval of the driveway's location or design.

POSSIBLE VERNAL POOL

Personnel from this office have visited the site and have identified the area identified by the Commission as having appeared to have been recently flooded. This area has been approximated on the site plan and no alterations are proposed within 100 feet of the mean high water line.

310 CMR 10.04 only regulates alterations within 100 feet of a vernal pool if they are wetland resource areas.

We noted that the area of stained leaves indicate flowage into the area from the larger brook and flowage out of the area towards the fire pond. Such a hydraulic connection, especially to a water body with fish, indicates that this area is not a vernal pool.

1999 LETTERS

During the hearings abutters presented letters written by others that pertained to the approval process at that time.

It is unknown if the professionals that prepared those have approved the use of those letters in this matter and if they believe the opinions addressed in those letters are still valid or if they should be applied to this matter.

STONE WALLS

Stone walls were erected by farmers to segregate uses of property. Most often walls around wetlands were not placed to keep livestock out of wetlands, but rather to segregate livestock relegated to wetland areas from crops raised in upland areas.

LETTER OF JUNE 6, 2007 – NEIGHBORHOOD GROUP CONCERNS

This letter was presented by Mr. Appleman, but was not signed and the “group” was not identified. Each issue will be briefly discussed

- The Bylaw [F4.5] references the language of 310CMR 10.53(3) and the Commission is directed to subparagraph (e) of that regulation. We believe that we have demonstrated that the project will have no adverse impacts as defined by the Act and the Bylaw and 10.53(3)(e) does not limit access across resource areas when there is an existing use on the property.
- It is not known to this office if the layout of this subdivision into large lots was to “protect wetlands” or simply to create a plutocracy. We do find that the construction of the road and infrastructure required a minimum of two wetland crossings, the dredging and filling of a wetland area to create the fire pond and the dredging of areas for drain outfalls.

This office provided the professional services required to divide Lot 1 [house #4] on Springhill Road into two building lots after the 1999 filing. A second home now exists on that property.

Services were also provided to the owners of house numbers 7 and 19 relative to further subdividing their properties.

The Lot containing house number 5 was created out of lot containing the existing farm house after the initial subdivision was approved.

- References to the original filing and the data generated at that time should only be applied to the present filing in proper context. The upland portions in the vicinity of the houses contains 1.54 Acres and has been demonstrated to be capable of containing two large homes and all required infrastructure in compliance with your Bylaw the Zoning Bylaw, Acton Board of Health Regulations and good engineering practice. Only the access drive will require alterations to occur within the Bylaw’s buffer zones.

The applicant is not required to prove hardship under the present bylaw and no endangered or species of special concern have been listed by Natural Heritage to be on, or in the vicinity, of the site.

- The project has been designed to be in compliance with your present bylaw. As requested the location of the fire pond, possible vernal pools, and the intermittent stream have been added to the plans. The 100 foot and other buffer zones from the BVW extend outside the buffer zone for these other wetland resource areas and the design of the project is not impacted by their locations.

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The third paragraph of Section 3.1 of DEP's Massachusetts Inland Wetland Replication Area Guidelines states "When possible, the replication area should be excavated and graded to the specifications given in the plan before work in the existing wetlands begins." Clearly the wetland replication area need not be completed and compliant before any construction begins as stated in the groups letter.

The project has been designed in conformance with all published guidelines for wildlife habitat protection.

- The housing sites consist of 1.54 Acres of upland. The proposed development in this area requires no unusual site conditions to be overcome and only standard construction techniques are required.
- No rare or endangered species have been mapped on or in the environs of the property.
- The proposed construction has been designed to limit the possibility of disturbances outside of the area to be altered and will have no impact on the fire pond, or flooding.
- The proposed alterations have been designed to preserve the value of the majority of the site including the wetland corridor parallel to Spring Hill Road.
- The listing of a property as a "Prioritize Parcel" should not have any bearing on the merit of the project.
- The intention of the original developer is unknown and should not be considered by the Commission.
- The Bylaw and Wetlands Protection Act makes no provisions for hardship.
- The Commission has approved other wetland crossings and each project should be considered on its own merits.

SUMMARY

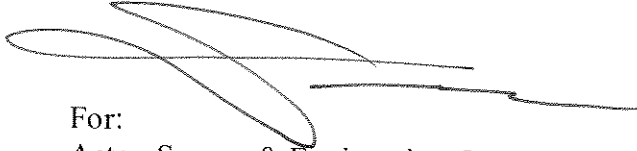
The development of the house sites conform with all applicable regulations of the Bylaw and the Wetlands Protection Act and only the need to cross the wetlands and perform alterations in the vicinity of the wetlands differentiates this project from others.

It is recognized that this site was until recently in common ownership with Lot 2A, which contains a house but both the Bylaw and the Wetland Protection Act only restrict the

development of property, or the density of development, if there is an identifiable adverse impact to the Purposes of the Bylaw and the Interests of the Act.

It is our opinion that it has been shown that the proposed project will not adversely impact the purposes of the Bylaw and Interests of the Act.

Very truly yours,
Mark T. Donohoe, PE



For:
Acton Survey & Engineering, Inc.

cc: Jeanson Homes, Inc.
Deanne Angel

Acton Survey & Engineering, Inc.

97 Great Road, Suite 6 • PO Box 666 • Acton, MA • 01720

Phone: 978-263-3666 • Fax: 978-635-0218

Email: actonsurvey@fiam.net

August 27, 2003

Acton Conservation Commission
472 Main Street
Acton, MA 01720

Re: 33,35& 37 Squirrel Hill Road
Sweeney & Sons, Inc.
6074 S00

Dear Commission Members:

This letter is to provide the Commission with the additional information requested at the initial public hearing for the three residential lots listed above.

Attached you will find a copy of the Preface to Revisions to the definition of Perennial Rivers and Intermittent Streams and a copy of the revised 310 CMR 10.53(2), which provides the new definition of a Perennial River.

This regulation can be summarized as follows:

For a stream to be perennial;

1. It is one of 23 major rivers, such as the Assabet.
2. It is shown as perennial on the current USGS Quad.
3. It is shown intermittent or not shown at all, on the current USGS Quad and has a tributary drainage area of over one square mile.
4. It is shown as intermittent, or not shown at all, on the current USGS Quad and has a tributary drainage area of at least one half square mile and the USGS StreamStats method predicts a flow rate of 0.01 cfs, or greater, at a 99 percent flow duration.
5. It is shown as intermittent, or not shown at all, on the current USGS Quad and the StreamStats method cannot be utilized because a stream centerline has not been entered into the computer's data base, but the stream has a tributary drainage area of at least 0.5 square miles and the drainage area consists of 75 percent or more of sands and gravels.

For a stream to be intermittent:

1. It satisfies the criteria, items 2 and 5 of the above list, but has been documented by field observations to be dry once a day for four consecutive days. Manmade embankments or direct and indirect withdrawals cannot cause the stream to be dry.
2. It is shown to be intermittent or not shown at all, on the current USGS Quad and has a drainage area of at least 0.5 square miles and has a predicted flow rate of 0.00 cfs at the 99 percent flow duration using StreamStats.

3. It is shown as intermittent, or not shown at all, on the current USGS Quad and because a centerline has not been entered into the computer's data base, StreamStats cannot be utilized and the watershed area is 0.5 square miles and the surficial geology of the drainage area consist of less than 75 percent sands and gravels.
4. It is shown to be intermittent, or not shown at all, on the current USGS Quad and has a drainage area of less than 0.5 square miles.

The Regulations also state that DEP may prepare maps showing the status of streams sometime in the future.

The stream at the rear of the subject lots is not shown on the current USGS MAP (see enclosed copy) and has a drainage area of 0.09 square miles when it enters the property and with the addition of the street drainage from Highland and Squirrel Hill the drainage area is increased to 0.11 miles (see attached drainage area diagram).

The stream is defined by 310 CMR 10.589(2) as being intermittent and meets criteria number 4, under intermittent stream, above.

If the Commission should have any questions concerning this matter prior to the continued public hearing on September 3, 2003, please contact us.

Very truly yours,
Mark T. Donohoe, PE

For
Acton Survey & Engineering, Inc.

Cc: Sweeney & Sons, Inc.

Larry Gibbs
13 Ticonderoga
Acton, MA 01720

Middlesex Registry of Deeds,
Cambridge, Massachusetts
Plan No. 2553 (REV 2004)
Filed 11-21-2006
Attest: *Alvin C. Piant*
Registrar

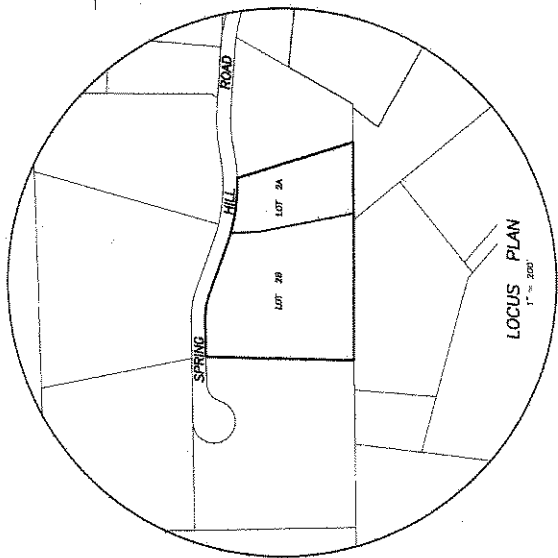
FOR REGISTRY OF DEEDS USE ONLY

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE MASSACHUSETTS REGISTRY OF DEEDS AND THE COMMISSIONER OF MASSACHUSETTS.

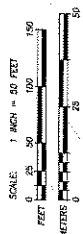
David A. Boudreau
PROFESSIONAL LAND SURVEYOR
DATE

I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES SHOWN EXISTING AND HAVE BEEN MEASURED BY ME OR BY A LICENSED SURVEYOR WHO HAS SHOWN AND RECORDED THE MEASUREMENTS AND NEW LINES FOR THE DIVISION OF EXISTING OWNERSHIP OR FOR NEW LINES ARE SHOWN.

David A. Boudreau
PROFESSIONAL LAND SURVEYOR
DATE



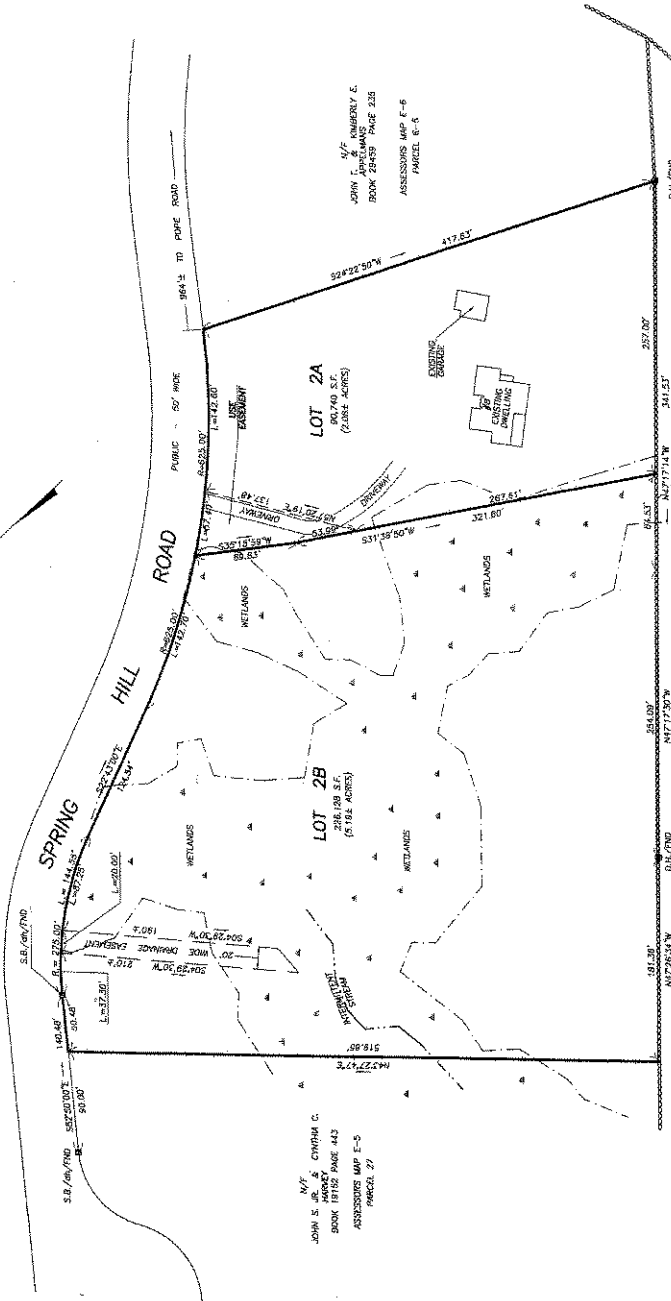
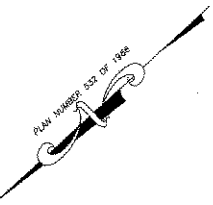
ZONING DISTRICT: RESIDENCE B (R-2)
GROUNDWATER PROTECTION DISTRICT: ZONE 4
RECORD OWNERS:
WILLIAM D. ELANE H.
BOOK 20023 PAGE 341
ASSASSORS MAP E-6 PARCEL 8-2
ACTON, MA 01720
SITE LOCUS: ROAD
EASEMENT MAP E-6 PARCEL 8-2
ASSASSORS REFERENCE:
MAP E-6 PARCEL 8-3
DEED REFERENCE:
BOOK 24108 PAGE 222
PLAN SIZE: 10' x 10'
PLAN DATE: 11/21/2006
PLAN BY: DAVID A. BOUDREAU
PLAN FOR: WILLIAM D. ELANE H.
PLAN FOR: 8 SPRING HILL ROAD
PLAN FOR: ACTON, MASSACHUSETTS
PLAN FOR: 50 FEET BY ACTON SPARKS & BY THE
PLAN FOR: ACTON PLANNING BOARD ON OCTOBER 12,
2006.



1453-1

LEGEND

- D.I./TND - DRILL HOLE FOUND
- S.E./O.P.N.D - STONE BOUND WITH DRILL HOLE FOUND
- STONE WALL



N/T
HAROLD COOPER & JANE M. KIRBY
BOOK 24619 PAGE 67
ASSASSORS MAP E-6 PARCEL 9

N/T
WILLIAM D. ELANE H.
BOOK 20023 PAGE 341
ASSASSORS MAP E-6 PARCEL 8-2

N/T
JOHN S. CHURCH C.
BOOK 19182 PAGE 443
ASSASSORS MAP E-5
PARCEL 21

N/T
JOHN L. KIMBERLY E.
BOOK 28459 PAGE 238
ASSASSORS MAP E-6
PARCEL 8-5

EASEMENT PLAN
SPRING HILL ROAD
ACTON, MASSACHUSETTS

PREPARED FOR:
WILLIAM & DEANNE ANGELL
8 SPRING HILL ROAD
ACTON, MA 01720
SCALE: 1 INCH = 50 FEET DME NOVEMBER 16, 2006



97 GREAT ROAD
P.O. BOX 666
ACTON, MA 01720
Acton Survey & Engineering, Inc.
PHONE (978) 233-3666
FAX (978) 635-0218
Since 1967
FILE #5146

R # 1453 (1 of 2) 11-21-2006 9:30 A.M.



Bk: 48528 Pg: 77 Doc: DEED
Page: 1 of 2 11/21/2006 09:39 AM

QUITCLAIM DEED

We, WILLIAM H. ANGELL and DEANNE G. ANGELL, of Acton, Massachusetts,

in full consideration of SIX HUNDRED TWENTY THOUSAND AND NO/100
(\$620,000.00) DOLLARS, the receipt of which is hereby acknowledged,

grant to TERENCE M. O'SULLIVAN of 8 Spring Hill Road, Acton, Middlesex County,
Massachusetts,

with **QUITCLAIM COVENANTS**,

The land with the improvements thereon located on Spring Hill Road, Acton, Middlesex County, Massachusetts, being shown as Lot #2A on a plan entitled "Plan of Land, Spring Hill Road, Acton, Massachusetts, Prepared for William & Deanne Angell, 8 Spring Hill Road, Acton, MA 01720," which plan is dated September 12, 2006 and recorded herewith at the Middlesex South District Registry of Deeds, to which plan reference may be made for a more particular description of the said Lot 2A. Meaning to convey and hereby conveying the said Lot 2A howsoever the said Lot 2A may be measured, bounded or described. Containing 90,740 square feet of land, according to the said plan.

The premises are hereby conveyed together with and subject to easements, restrictions and reservations of record, insofar as same may be in force and applicable.

The Grantor hereby reserves easements for the benefit of Lot 2B shown on the said plan within the easement area shown as "Use Easement" on plan entitled "Easement Plan Spring Hill Road, Acton, Massachusetts" prepared for William and Deanne Angell, 8 Spring Hill Road, Acton, MA 01720, which plan is dated November 16, 2006, and recorded herewith. The easements reserved hereby include the right to use the said easement area for access to and egress from the said Lot 2B and for installation and maintenance of utilities of every type and kind, including, but not limited to, electrical, sewer, cable, telephone and telecommunications.

Lot 2A is a portion of the premises conveyed to us by the deed recorded with Middlesex South District Registry of Deeds at Book 24106, Page 522.

The Law Office of
CHRISTINE MORGAN
Patriot Square Building
179 Great Road • Acton, MA 01720

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 11/21/2006 09:39 AM
Ctrl# 083687 01872 Doc# 00221178
Fee: \$2,827.20 Cons: \$620,000.00

PLAN 1453 - 11-21-06
8 Spring Hill Road, Acton

WITNESS our hands and seals this 15th day of November, 2006.

William H. Angell
WILLIAM H. ANGELL

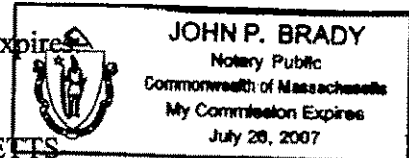
Deanne G. Angell
DEANNE G. ANGELL

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 15 day of November, 2006, before me, the undersigned notary public, personally appeared WILLIAM H. ANGELL, proved to me through satisfactory evidence of identification, which were driver license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:



COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 15 day of November, 2006, before me, the undersigned notary public, personally appeared DEANNE G. ANGELL, proved to me through satisfactory evidence of identification, which were driver license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

John P. Brady
Attest. Middlesex S. Register

